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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER	
BROCKETTI, JULIE K	

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/028,757	CANNON, LEE E.	
	Examiner	Art Unit	
	Julie K. Brocketti	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *56-59,61-66,68-71 and 73-83* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *56-59,61-66,68-71 and 73-83* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 54 is objected to because of the following informalities: the word "a" needs to be inserted before "gaming network". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 54, 56-59, 61-66, 68-71and 73-83 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 54 and 66 now recite "...receiving a vote from at least one of the team..." and "...according to the vote received from the at least one of the team..." The claim is awkwardly worded and confusing. The claim states "forming a team from a plurality of players" thereby insinuating that there is only one team with many players on it. The phrase "from at least one of the team" does not make sense since there is only one team. It is unclear as to whether Applicant meant that only 1 vote was received from the overall team or 1 vote was received from one player on the team (as in previous claims 60 and

72) or that 1 vote was received from each player on the team. Consequently, the claim is indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 54, 61, 63-66, 73, 75-77, 79, 80, 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, U.S. Patent No. 6,769,986 B2 in view of Walker, U.S. Patent No. 6,394,899 B1 in further view of LaMura, U.S. Patent No. 6,676,521. Vancura discloses a gaming method for use on a gaming network and device. A wager is received from a player. An image representing a first game is displayed. The device determines whether to initiate a bonus game (See Vancura col. 7 lines 23-52; Fig. 1). A trivia question is selected a fixed set of answers are associated with the trivia question for the bonus game. The trivia question and the fixed set of answers have a difficulty level selected according to a criterion. An image is displayed representing the bonus game. An answer selection of one of the fixed sets of answers is selected from the player. An award is determined based on the answer selection (See Vancura col. 6 lines 24-67; col. 1-7) [claims 54, 66].

The game of Vancura can be played by multiple players therefore, one may receive a wager from a second player, determine to initiate a bonus game for the second player, select a second trivia question and a second fixed set of answers associated with the second trivia question for the bonus game. The second trivia question and the second fixed set of answers having a difficulty level selected according to a criterion. An image representing the bonus game is displayed and a second answer selection is received from the second player of one of the fixed second set of answers and a second award is based on the second answer selection (See Vancura col. 7 lines 23-52) [claims 61, 73]. For example, a second person can play the game on a second gaming machine or can come and play the game at the same gaming machine once the first player is done. It is obvious to one skilled in the art that receiving a wager from a player comprises receiving a wager from a player comprises receiving a wager via a coin acceptor, a bill receiver or a card reader [claims 63, 75]. These are all common ways to receive a wager in a gaming device. Determining to initiate a bonus game comprises determining one of a combination of reels, a hand in video poker and a hand in video blackjack (See Vancura col. 3 lines 8-11) [claims 64, 76]. The first game comprises one of a video slot game, a video poker game, a video blackjack game, a video keno game and a video bingo game (See Vancura Fig. 1) [claims 65, 77]. The gaming system includes a display unit, a wager input device, a player input device and at least one

processing unit operably coupled to the display unit, the wager input device, the player input device and a memory (See Vancura Fig. 1) [claim 66].

Vancura lacks in disclosing that the criterion is independent of player preferences. Walker discloses a trivia game in which the criteria for the difficulty level of the questions is independent of player preferences (See Walker col. 2 lines 53-56; col. 7-21; col. 6 lines 28-30) [claims 54]. The criterion comprises a past performance of the player and a status in the bonus game (See Walker col. 2 lines 53-56; col. 7-21; col. 6 lines 28-30) [claims 79, 80, 82, 83]. For example, the difficulty level may be decided based on a player's skill level, which is based on past performances, i.e. a status that a player has achieved in the bonus game. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the difficulty level of a question independent of the player preference. For example, a player may prefer easy questions, but if they are a good competitor they should have a more difficult skill level and therefore should have more difficult questions in order for the player to have a more difficult chance to answer the question thereby having the game be in the casino's advantage and not the player's. Vancura also lacks in disclosing forming a team of players. Walker discloses that when receiving an answer selection from the player, the player may form a team from a plurality of players. (See Walker col. 6 lines 40-47) [claims 54, 66]. It would have been obvious to one of ordinary skill in the art to have players play as a team. Team play is very common in trivia games because the

more players you have, the better the chance that someone on the team will know the answer and the team can answer the question correctly thus winning the prize. Consequently, teams can help players win in trivia games.

Walker and Vancura both lack in specifically disclosing receiving a vote from at least one of the team. LaMura teaches of an on-line trivia game in which a vote is received from at least one of the team at a processing unit on the gaming network. The vote is associated with at least one of a fixed set of answers. The answer selection at the processing unit on the gaming network is determined according to the vote received from the at least one of the team (See LaMura col. 7 lines 10-30; col. 11 lines 35-49; col. 12 lines 7-27)[claims 54, 66]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the team members of Walker to vote for one of the fixed answers. By taking a team vote for the answer, all team members may contribute to and participate in the answer process and it is well known throughout the art that majority vote wins and as such the answer with the most votes should be the one the team selects. Voting for what a plurality of people want is a democratic process that can be applied in numerous circumstances including game play.

Claims 56-59, 62, 68-71 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, in view of Walker, in further view of Olsen, U.S. Patent No. 6,217,448. Vancura and Walker lack in specifically disclosing how the bonus pools are funded. Olsen teaches that determining an

award comprises determining an award from a bonus pool generated at least in part through the wager received from the player (See Olsen col. 9 lines 50-67) [claims 56, 68]. The award can comprise the entire bonus pool or a portion of the bonus pool (See Olsen col. 9 lines 50-67) [claims 57, 58, 69, 70]. Olsen further teaches that when determining to initiate a bonus game it determines if a qualification for the player to enter to the bonus game has occurred including setting a stake in the bonus pool for the player in the bonus game according to the qualification (See Olsen col. 25 lines 45-49) [claims 59, 71]. Furthermore, if a second person plays the wagering game, the bonus pool is generated at least in part through the wager received from the first player and the wager received from the second player [claims 62, 74]. It would have been obvious to one of ordinary skill in the art to fund the bonus pools through the player's wager and to award the player all or a portion of the pool. By funding the pool through the player's wagers, the pool is self-sufficient and the casino does not lose any money on awarding the pool since it maintains itself through player wagers. Furthermore, it is well known throughout the art to have a qualification to participate in a bonus game such as a max bet and to have that bet fund the pool. Once again, if the bonus pool is self sufficient, the casino is still profitable because it does not have to award any money outside of the pool.

Claims 78 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura, in view of Walker, U.S. Patent No. 6,394,899 B1, in view of LaMura in further view of Walker et al., U.S. Patent No.

6,193,606 B1. Vancura and Walker lacks in specifically disclosing that the criterion comprises a random selection. Walker et al. teaches of an electronic gaming device with a trivia game component. The trivia questions have a difficulty level selected according to a criterion in which the criterion comprises a random selection (See Walker col. 8 lines 26-47; col. 10 lines 59-67; col. 11 lines 1-9) [claims 78, 81]. For example, each question has a certain difficulty level and the questions are randomly selected, therefore the difficulty level of the question is randomly selected. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the difficultly level of the questions randomly so that players do not know the types of questions or difficulty of them that they may receive thereby making the overall game more random and keeping the overall quality of the game as a game of chance. Consequently, the more random that a game is, the more it is advantageous to the casino and more profitable.

Response to Amendment

It has been noted that claims 54, 59, 61, 64, 66, 73 and 76 have been amended. Claims 60 and 72 have been cancelled.

Response to Arguments

Applicant's arguments filed August 22, 2005 have been fully considered but they are not persuasive.

Applicant argues that Walker teaches only that a team may be formed or that team participants may give advice, answers or other type of feedback. Applicant argues that Walker does not state that a vote is taken or that an answer is to be selected according to a vote. The Examiner notes that she was taking Official Notice in the last office action in that it is well known throughout the art to have a team take a vote in order to determine the answer they will submit. Nevertheless, the Examiner has now supplied the reference LaMura, which clearly teaches of players forming a team for a trivia contest and conducting a formal vote via a processing unit to decide on their answer.

The Examiner further notes that in Applicant's amendments to independent claims 54 and 66, that Applicant has included some features of cancelled claims 60 and 72. However, Applicant has altered the scope of the previous claims by stating that the vote is from the team instead of one single player. Consequently, this change in scope is a new issue that was not previously considered and as such this office action has been made final.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brocketti whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie Brocketti

Julie K Brocketti
Primary Examiner
Art Unit 3713